

PLEASE NOTE

ONLY the amended sections of the License Law and Law of the Agency have been included in this file. If you would like to view the law in its entirety, please visit our website at <http://www.lrec.state.la.us>.

Thank you.

§1431. Definitions

As used in this Chapter the following words have the meaning ascribed to them in this Section unless the context clearly indicates otherwise:

- (1) "Associate broker" means a person who holds a broker's license and who is exclusively affiliated with and sponsored by another licensed real estate broker to participate in any activity described in this Section.
- (2) "Commission" means the Louisiana Real Estate Commission.
- (3) "Franchise agreement" means an agreement whereby one party, the franchisor, authorizes a real estate broker, the franchisee, to use registered trademarks or other advertising tools to create a common identity among several brokers nationally or regionally for marketing purposes.
- (4) "Individual real estate broker" means an individual person licensed as a real estate broker and does not mean a licensed corporation, limited liability company, or partnership licensed as a real estate broker.
- (5) "Qualifying broker" means the sponsoring broker for a licensed corporation, limited liability company, or partnership and is the individual real estate broker designated by a licensed corporation, limited liability company, or partnership, by resolution, as its representative in all matters relating to its real estate business activities in Louisiana and in administrative and regulatory matters before the commission.
- (6) "Real estate" shall mean and include condominiums and leaseholds, as well as any other interest in land, with the exceptions of oil, gas and other minerals and whether the real estate is situated in this state or elsewhere.
- (7) "Real estate activity" means any activity relating to any portion of a real estate transaction performed for another by any person, partnership, limited liability company, association, or corporation, foreign or domestic, whether pursuant to a power of attorney or otherwise, for a fee, commission, or other valuable consideration, or with the intention, in the expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration:
 - (a) Sells, exchanges, purchases, manages, rents, or leases, or negotiates the sale, exchange, purchase, rental, or leasing of real estate.
 - (b) Offers or attempts or agrees to negotiate the sale, exchange, purchase, management, rental, or leasing of real estate.
 - (c) Lists or offers or attempts or agrees to list for sale or lease any real estate or the improvements thereon.

(d) Buys or offers to buy, sells or offers to sell, or otherwise deals in options on real estate or the improvements thereon.

(e) Advertises or holds himself, itself, or themselves out as engaged in the business of selling, exchanging, purchasing, managing, renting, or leasing real estate.

(f) Assists or directs in the procuring of prospects or the negotiation or closing of any transaction, other than mortgage financing, which results or is calculated to result in the sale, exchange, managing, leasing, or renting of any real estate, other than a provider of information, ideas, and materials to guide homeowners in the sale of their own property.

(g) Is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with any contract whereby he undertakes primarily to promote the sale, exchange, purchase, rental, or leasing of real estate through its listing in a publication issued primarily for such purpose, or for referral of information concerning such real estate to brokers, or both.

(h) Sells or attempts to sell or offers or attempts to negotiate the sale of any business whose assets include real estate or leases of real estate.

(i) Lists or offers or attempts or agrees to list for sale any business whose assets include real estate or leases of real estate.

(8) "Real estate salesperson" means a person, other than an associate broker, sponsored by a licensed real estate broker to participate in any activity described in this Section.

(9) "Timeshare developer" means an individual, partnership, limited liability company, corporation, or other legal entity, or the successor or assignee thereof, who creates a timeshare plan or who is in the business of making sales of timeshare interests which it owns or purports to own.

(10) "Timeshare interest salesperson" means a person who directly sells or offers to sell any timeshare interest.

(11) "Timeshare registrant" means timeshare interest salespersons or timeshare developers registered by the commission.

(12) "Real estate school" includes any place or institution certified by the commission which is open to the public for the instruction or training of individuals to engage in the selling of real estate.

(13) "Sponsoring broker" means any individual real estate broker who sponsors associate brokers or real estate salespersons who participate in any activity described in this Section.

(14) "Real estate continuing education vendor" means any school, place, individual, or institution certified by the Louisiana Real Estate Commission which offers courses or seminars in real estate and related subjects to fulfill continuing education requirements for license or certificate renewal purposes.

(15) "Licensee" means any person who has been issued a license by the commission to participate in any activity described in this Section.

(16) "Active licensee" means any currently licensed person whose license has not been transferred to inactive status and who is authorized to act in the capacity of a real estate broker or salesperson as provided for in this Chapter.

(17) "Inactive licensee" means any currently licensed person whose license has been transferred to inactive status and who is not authorized to act in the capacity of a real estate broker or salesperson as provided for in this Chapter.

(18) "Property manager" means one who, for a fee, commission, or other valuable consideration, manages real estate, including the collection of rents, supervision of property maintenance, and accounting for fees received for another.

(19) Repealed by Acts 1995, No. 1207, § 2.

(20) "Real estate transaction" means the selling, offering for sale, buying, offering to buy, soliciting for prospective purchasers, managing, offering to manage, leasing, offering to lease, renting, or offering to rent any real estate or improvements thereon, or any business or other entity whose assets include real estate or leases of real estate.

(21) "Seller" means the transferor in a real estate transaction, and includes an owner who lists real estate with an agent, whether or not a transfer results, or who receives an offer to purchase or lease real estate property of which he is the owner from an agent on behalf of another. "Seller" includes a lessor.

(22) "Client" means one who engages the professional advice and services of a licensee as his agent and whose interests are protected by the specific duties and loyalties imposed by that relationship.

(23) "Agent" means a licensee acting under the provisions of this Chapter in a real estate transaction.

(24) "Subagent" means a licensee, other than a listing agent or a buyer's agent, who acts in cooperation with a listing agent in a real estate transaction.

(25) "Listing agent" means a licensee who has obtained a listing of real estate to act as an agent for compensation.

(26) "Buyer's agent" means a licensee who is employed by and represents only the buyer in a real estate transaction, regardless of whether such agent's compensation is paid by the buyer directly or by the seller through a commission split with the listing agent.

(27) "Buyer" means the transferee in a real estate transaction, and includes a person who executes an offer to purchase or lease real estate from a seller, whether alone or through an agent, or who seeks the services of an agent with the object of entering into a real estate transaction. "Buyer" includes a lessee.

(28) "Commingling" means putting personal funds and funds belonging to other persons in one mass or mixing the funds together so they cannot be identified or differentiated.

(29) "Dealing in options" means a person, firm, partnership, limited liability company, association, or corporation directly or indirectly taking, obtaining, or using an option to purchase, exchange, rent, or lease real property or any interest therein with the intent or for the purpose of buying, selling, exchanging, renting, or leasing said real property or interests therein to another or others, whether or not said option is in his name and whether or not title to said property passes through the name of said person, firm, partnership, limited liability company, association, or corporation in connection with the purchase, sale, exchange, rental, or lease of such real property in interest.

(30) "Listing agreement" means a written document signed by all owners of real estate or their authorized attorney in fact authorizing a broker to offer or advertise real estate described in such document for sale or lease on specified terms for a defined period of time.

(31) "Property management" means the marketing, leasing, or overall management of real property for others for a fee, commission, compensation, or other valuable consideration.

(32) "Broker" or "Real estate broker" means a licensed real estate broker performing activities as an individual real estate broker, a sponsoring broker or designated qualifying broker, or a corporation, partnership, or limited liability company which has been granted a real estate license through a designated qualifying broker.

(33) "Mold" means any form of multicellular fungi that live on plant or animal matter and in indoor or outdoor environments. Types of mold often found in water-damaged building materials include but are not limited to cladosporium, penicillium, alternaria, aspergillus, fuarium, trichoderma, memnoniella, mucor, and strachybotrys chartarum.

Acts, 1978, No. 514, § 1. Amended by Acts 1979, No. 404, § 1; Acts 1981, No. 309, § 1; Acts 1983, No. 270, § 1; Acts 1983, No. 380, § 1; Acts 1983, No. 381, §1; Acts 1983, No. 552, § 2; Acts 1986, No. 841, § 1; Acts 1989, No. 655, § 1, eff. Jan. 1, 1990; Acts 1990, No. 893, § 1; Acts 1991, No. 354, § 1, eff. Jan. 1, 1992; Acts 1995, No. 1207, § 1; Acts 1997, No. 845, § 1, Acts 2003, No. 1123, §1.

§1446: COMPENSATION; INDEPENDENT CONTRACTOR STATUS OF SALESPERSONS AND ASSOCIATE BROKERS

- A. No payment of a commission or compensation shall be made by any licensee or registrant to any person who has not first secured his license or registration under the provisions of this Chapter. This Subsection shall not apply to a broker who is currently licensed in his state of residence.
- B. No payment of a commission or other compensation shall be made by any broker to any licensee or registrant when the paying broker has knowledge that the receiving licensee or registrant has agreed to pay or intends to pay or otherwise deliver a portion of the commission or compensation to an unlicensed person or entity.
- C. Associate brokers, salespersons, and timeshare interest salespersons shall not pay or offer to pay any commission or valuable consideration for the performance of any act herein specified.
- D. Payment of commission or compensation may be made to and accepted by former licensees and registrants for transactions negotiated by them while duly licensed or registered by the commission.
- E. Current licensees who transfer their licenses from one broker to another broker may accept compensation from their former broker for business transactions which were instituted while still with that broker, so long as the compensation is transmitted through their current sponsoring broker.
- F. Associate brokers and salespersons shall not accept a commission or other valuable consideration for the performance of any act herein specified, or for performing any act relating thereto, from any person, except their sponsoring or qualifying broker.
- G. Associate brokers and salespersons may assign or direct that commissions or other compensation earned in connection with a real estate transaction be paid by their licensed sponsoring broker to an unlicensed corporation of which the associate broker or salesperson is the sole officer, director, and shareholder, or an unlicensed limited liability company of which the associate broker or salesperson is the sole manager.
- H. A real estate salesperson or associate broker shall be an independent contractor of the broker with whom he is affiliated if all of the following conditions are met:
- (1) The real estate salesperson or associate broker is a licensee.
 - (2) Substantially, all of the real estate salesperson's or associate broker's remuneration for the services performed are directly related to sales or other output rather than the number of hours worked.

(3) There is a written agreement between the real estate salesperson or associate broker and the broker that specifies that the real estate salesperson or associate broker will not be treated as an employee.

Acts 1978, No. 514, §1. Amended by Acts 1989, No. 655, §1, eff. Jan. 1, 1990; Acts 1995, No. 1207, §1; Acts 1997, No. 845, §1; Acts 1999, No. 452, §2, Acts 2003, No. 321, §1.

§1448. Revocation or suspension of licenses

A. Any licensee whose license is suspended or revoked in accordance with this Chapter shall be deemed an unlicensed person during the period of suspension or revocation and shall be subject to the penalties prescribed for unlicensed persons, if he engages in activity requiring licensure during the period of suspension or revocation. The commission retains jurisdiction over all unlicensed persons relative to violations of and enforcement of the provisions of this Chapter.

B. The revocation or suspension of a broker's license shall automatically suspend the license of every associate broker or salesperson who is sponsored by the broker whose license was suspended or revoked. The sponsoring broker shall, within seventy-two hours of notification by the commission of the final action on the revocation or suspension of his license, return to the commission all licenses of the licensees sponsored by him.

C. A sponsoring broker shall, within seventy-two hours of notification by the commission return his license or the license of any associate broker or salesperson sponsored by him when such license has been suspended or revoked by the commission.

Acts 1978, No. 514, §1. Amended by Acts 1981, No. 309, §1; Acts 1995, No. 1207, §1; Acts 2003, No. 713, §1.

§1449. Broker to insure provision of contract; retention of records

A. Licensees acting in the capacity of an agent or subagent, and registrants shall insure that their respective principal party signing any document in a real estate transaction is provided a copy of the document immediately after the signing of the document.

B. Licensees and registrants shall insure that persons signing any document in a real estate transaction which pertains to more than one party are provided with a copy of the completed document bearing the signatures of all parties to the transaction within five days after the final signature is affixed to the document.

C. Written agreements for the sale or management of real estate shall specify a definite expiration date which shall not be subject to qualifying terms or conditions.

D. Individual real estate brokers shall retain, readily available and properly indexed, for a period of five years, the bank statements, copies of deposit slips, and canceled checks on all escrow or trust accounts and copies of all documents which in any way pertain to real estate transactions wherein they or licensees sponsored by them have appeared in a licensing capacity. This requirement shall not be altered by the change of status of a broker to that of an associate broker or an unlicensed person, or transfer to inactive status.

E. Corporate, limited liability company, and partnership real estate brokers shall maintain, readily available and properly indexed, for a period of five years, the bank statements, copies of deposit slips, and canceled checks on all escrow or trust accounts and copies of all documents which in any way pertain to real estate transactions wherein they, their designated qualifying broker, or licensees sponsored by them have appeared in a licensing capacity. This requirement shall not be altered by the failure of the corporate, limited liability company, or partnership real estate broker to renew their license or the transfer of the license to the inactive status.

Acts 1978, No. 514, § 1. Amended by Acts 1984, No. 943, § 4, eff. July 20, 1984; Acts 1989, No. 655, § 1, eff. Jan. 1, 1990; Acts 1991, No. 642, §1; Acts 1995, No. 1207, § 1; Acts 1997, No. 845, § 1; Acts 2003, No. 1123, §1.

§1455. Causes for censure, suspension, or revocation of license, registration, or certification

A. The commission may censure a licensee, registrant, or certificate holder or conditionally or unconditionally suspend or revoke any license, registration, or certificate issued under this Chapter, levy fines or impose civil penalties not to exceed five thousand dollars, or impose continuing education requirements on licensees, registrants, or certificate holders if, in the opinion of the commission, a licensee, registrant, or certificate holder is performing or attempting to perform or has performed or has attempted to perform any of the following acts:

- (1) Committing any act in violation of the Louisiana Real Estate License Law not specified in this Section.
- (2) Violating any rule or regulation promulgated by the commission in the interest of the public and consistent with the provisions of this Chapter.
- (3) Committing any act in violation of the Louisiana Timesharing Act.
- (4) Failure to account for any money coming into his possession belonging to others.
- (5) Failure to properly disburse money which belongs to others upon its coming into his possession.
- (6) Commingling the money or other property of his principals with his own.
- (7) Accepting, giving, or charging any undisclosed commission, rebate, or direct profit on expenditures made for a principal.
- (8) Representing or attempting to represent a real estate broker or real estate agency other than the licensed broker or agency listed on the real estate license issued by the commission.
- (9) Acting in the dual capacity of agent and undisclosed principal in any transaction. However, such a relationship shall not constitute dual agency if the licensee is the seller or lessor of property that he owns or if the property is owned by a real estate business of which the licensee is the sole proprietor and agent and the same is disclosed to the buyer or tenant.
- (10) Guaranteeing or authorizing any person to guarantee future profits which may result from the resale of real property.
- (11) Offering real estate for sale or lease without the written consent of the owner or his authorized agents. Undivided real estate may be offered for sale or lease with the written consent of the owner of the property to be sold or leased as to his undivided portion of the property.

- (12) Offering real estate for sale or lease on terms other than those authorized by the owner or his authorized agent.
- (13) Offering any inducement to or in any way encouraging a party to a written contract involving the sale, lease, or management of real estate to break such contract for the purpose of substituting, in lieu thereof, a new contract with another principal or licensee.
- (14) Negotiating the sale, exchange, lease, or management of real estate directly with an owner or lessor of the real estate if he knows that such owner or lessor has a written outstanding contract in connection with such real estate granting an exclusive agency or an exclusive right to sell, exchange, lease, or manage the real estate to another broker.
- (15) Knowingly making any false representations to any party in a real estate transaction.
- (16) Acting for more than one party in a real estate transaction without the written acknowledgment of all parties to the transaction.
- (17) Failure by an associate broker or salesperson to place, as soon after receipt as practicable, in the custody of his licensed broker any deposit money or other money or funds entrusted to him by any person dealing with him as the representative of his licensed broker or in connection with any transaction involving the sale, lease, or management of real property.
- (18) Representing to any lender, guaranteeing agency, or any other interested party, either verbally or through the preparation of false documents, an amount in excess of the true and actual sale price of the real estate or terms differing from those actually agreed upon.
- (19) Knowingly permitting a sponsored licensee to operate as an individual real estate broker.
- (20) Knowingly permitting a sponsored licensee or an employee to conduct real estate activities in violation of this Chapter.
- (21) Failure of a licensee to provide the parties to a real estate transaction with an agency disclosure informational pamphlet and, where applicable, a dual agency disclosure form.
- (22) Failure to advise all parties to a real estate transaction in writing of compensation being received from any source in connection with that real estate transaction.
- (23) Failure without just cause to surrender unto the rightful owner, upon demand, any document or instrument received by a licensee or registrant in the course of a real estate transaction.
- (24) Accepting other than cash as earnest money or good faith deposit unless that fact is communicated to the owner prior to the acceptance of the offer to purchase, and such fact is shown on the face of the purchase and sale agreement.

(25) Failure of a licensee to inform the buyer and seller at the time an offer is presented that either party may be expected to pay certain costs such as discount points, etc. and the approximate amount of said costs.

(26) Failure to reduce a bona fide offer to writing when a proposed purchaser requests that a written offer be submitted.

(27) Failure to disclose to a buyer a known material defect regarding the condition of real estate of which a broker, salesperson, or timeshare interest salesperson has knowledge.

(28) Having been finally adjudicated and found guilty for refusing, because of race, color, national origin, sex, or ethnic group, to show, sell, or rent any real estate for sale or rent to qualified purchasers or renters or for any violation of the Fair Housing Act of 1968 or the Louisiana Equal Housing Opportunity Act¹ and/or any amendments thereto or any successor legislation subsequently following.

(29) Having been convicted of a felony or entered a plea of guilty or nolo contendere to a felony charge.

(30) Refusing to appear or testify under oath at any hearing held by the commission.

(31) Procuring a license, registration, or certificate for himself or anyone else by fraud, misrepresentation, or deceit.

(32) Failure to comply with an order or consent order issued or approved by the commission pursuant to adjudicatory proceedings.

Important Notice: Two separate Acts from the 2003 Louisiana Legislative Session were used to amend !455.A (33). As of this date, the LREC has not been notified of how this will be resolved.

(33) Engaging in real estate activity or attempting or offering to engage in real estate activity within the state during any period of suspension of a real estate license by the commission or revocation of any real estate license by the commission.

(33) Failure by a licensee to provide a buyer or seller with a written property disclosure form for sales and certain leases involving residential real property pursuant to R.S. 9:3195 et seq.

B. The commission may suspend or revoke the registration of any timeshare developer who knowingly allows any person or entity who does not have a current timeshare interest sales registration or current Louisiana real estate license to sell timeshare interests owned by the timeshare developer.

Acts 1978, No. 514, § 1. Amended by Acts 1979, No. 404, § 1; Acts 1980, No. 388, § 1; Acts 1983, No. 552, § 2; Acts 1984, No. 943, § 2, eff. July 20, 1984; Acts 1986, No. 838, § 1; Acts 1986, No. 841, § 1; Acts

1989, No. 655, § 1, eff. Jan. 1, 1990; Acts 1991, No. 354, § 1, eff. Jan. 1, 1992; Acts 1995, No. 1207, § 1; Acts 1997, No. 32, § 1; Acts 1999, No. 452, § 2, Acts 2003, No. 713, § 1,

1In par. A(28), 42 U.S.C.A. § 3601 et seq. R.S. 51:2601 et seq., the Louisiana Open Housing Act, is changed, as of July 1, 1999, to the Louisiana Equal Housing Opportunity Act, by Acts 1997, No. 1141, eff. July 1, 1999.

§1456. Notice of charges; hearing; censure, suspension, or revocation of license, registration, or certificate; criminal action

A. (1) Before censuring, suspending, or revoking any license or registration, or certification, or imposing continuing education requirements, the Louisiana Real Estate Commission shall, except for the reasons set forth in R.S. 37:1463(G), notify in writing the licensee or person registered of any charges made, at least twenty days prior to the date set for the hearing, and shall afford him an opportunity to be heard in person or by counsel. Notice shall be satisfied by mailing a copy of the charges by certified mail to the licensee's, registrant's, or certificate holder's address on file with the commission or by commission personnel hand delivering a copy of the charges to the licensee, registrant, or certificate holder.

(2) The written notice may be served either personally on a broker or salesperson or the registered agent for a corporation, limited liability company, or partnership, or sent by registered or certified mail to the last known business address of the licensee or registered agent.

(3) If the licensee is an associate broker or a salesperson, the commission also shall inform the sponsoring broker of the specific charges against the associate broker or salesperson by sending notice thereof by registered or certified mail to the broker's last known business address.

(4) If the licensee is a corporate, partnership, or limited liability broker, the commission shall inform the designated qualifying broker and the registered agent of the specific charges against the licensee by sending notice thereof by registered or certified mail to the last known business address of the qualifying broker or the registered agent.

(5) If the licensee is a designated qualifying broker for one or more licensed corporations, limited liability companies, or partnerships, the commission shall inform each corporation, limited liability company, or partnership represented by the broker of the specific charges against the broker by sending notice thereof by registered or certified mail to the registered agent for each corporation, limited liability company, or partnership represented by the broker.

(6) The commission shall have the power to subpoena and issue subpoenas duces tecum and to bring before it any person in this state, or take testimony by deposition, in the same manner prescribed by law in judicial proceedings in the courts of this state, or to require production of any records relevant to an inquiry or hearing by the commission. Any final decision or determination of the commission shall be reviewable by the Nineteenth Judicial District Court in the parish of East Baton Rouge.

B. (1) The hearing on the charges shall be at a time and place prescribed by the commission and in accordance with the provisions of Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950.

(2) The commission may make findings of fact and shall deliver or mail such findings to the licensee charged with an offense under the provisions of this Part. Any finding of fact by the commission pursuant to the provisions of this Subsection shall be conclusive.

(3) The Nineteenth Judicial District Court of the state may review questions of law involved in any final decision of the commission. Any application for review made by an aggrieved party shall be filed within thirty days after the final decision of the commission.

(4) If the court finds that the Louisiana Real Estate Commission has regularly pursued its authority and has not acted arbitrarily, it shall affirm the decision, order, or ruling of the commission. If a petition to review the final decision of the commission is filed, the case shall be specifically fixed for trial within thirty days from the filing of an answer by the commission.

C. Administrative proceedings under this Chapter before the commission are not exclusive remedies. Criminal action under the terms of this Chapter may be simultaneously instituted and maintained against the accused for any violation of this Chapter. The commission may also separately or simultaneously bring and carry on an action by injunction to restrain a licensed or unlicensed individual from further violation of any of the provisions of this Chapter, during the pendency of the criminal proceeding or proceedings before the commission and against any unlawful practice thereafter.

Act 1978, No. 514, § 1. Amended by Acts 1983, No. 552, § 2; Acts 1989, No. 655, § 1, eff. Jan. 1, 1990; Acts 1997, No. 845, § 1; Acts 1999, No. 452, § 2; Acts 2003, No. 713, § 1.

§1457. Judicial proceedings

A. If an appeal is taken under R.S. 37:1456, the court shall receive the entire record of the hearing.

B. All judicial proceedings relative to actions taken by the commission shall be filed in and adjudicated by the Nineteenth District Judicial Court in the parish of East Baton Rouge.

C. Absent an agreement of counsel for all parties, no stay of enforcement of a decision issued under R.S. 37:1456 or for a violation of R.S. 37:1459, during the pendency of an appeal shall be granted unless the Nineteenth Judicial District Court finds that the applicant has established that the issuance of the stay does not threaten harm to other interested parties.

D. No stay shall be granted ex parte. The court shall schedule a hearing on the request for a stay order within ten days from filing. The decision shall be rendered within five days after the conclusion of the hearing.

E. No judicial order staying or enjoining the effectiveness or enforcement of a final decision or order of the commission in an adjudication proceeding shall be effective, or be issued to be effective, longer than one hundred twenty days from the date on which the commission's decision or order was rendered, or the date on which the court enters judgment in a proceeding for judicial review of the commission's decision or order pursuant to R.S. 49:964, whichever comes first.

Acts 1978, No. 514, § 1. Amended by Acts 1995, No. 1207, § 1; Acts 1997, No. 845, § 1; Acts 2003, No. 713, §1.

§1458. Penalty

Whoever violates any of the provisions of this Chapter shall be fined not more than two thousand dollars, or imprisoned not more than five years, or both.

Acts 1978, No. 514, § 1; Acts 2003, No. 713, §1.

§1459. Real estate activity; unlicensed person

A.(1) In addition to any other civil remedy or civil penalty provided for in this Chapter, the commission may issue a subpoena to any person or persons who the commission has probable cause to believe has engaged in real estate activity without a currently valid license.

(2) Subpoenas issued by the commission shall comply with the notice requirements of R.S. 49:955. These subpoenas shall be served upon the unlicensed individual personally or by any type of mailing requiring a return receipt and shall include a statement of the manner in which the unlicensed person shall be required to respond to the commission.

B. The commission may impose a civil penalty of no more than five thousand dollars upon any unlicensed person who, after a hearing or informal resolution in accordance with all provisions of this Chapter and the Administrative Procedure Act, is found to have engaged in real estate activity without the benefit of a currently valid license having been issued by the commission pursuant to the provisions of this Chapter. In addition, the commission may assess costs and attorney fees against the unlicensed person found to have been engaged in real estate activity without a current license.

C. The fact that any person engages in or performs or offers to engage in or perform any of the practices, acts, or operations set forth in R.S. 37:1431(7) is prima facie evidence that such person is engaged in the illegal practice of real estate.

D. No person engaged in real estate activity without a currently valid license shall have the right to receive any compensation for services so rendered. In addition to any other penalties imposed under R.S. 37:1455 and 1458, any person who engages in real estate activity without a license shall return any fees collected for engaging in real estate activity.

§1470. Mold informational pamphlet; liability of licensees

A.(1) By April 1, 2004, the commission shall, by rule, in accordance with the Administrative Procedure Act, approve a mold informational pamphlet, which may be distributed to buyers by licensees in connection with any real estate transaction entered into on and after July 1, 2004.

(2) If the licensee delivers the mold informational pamphlet to the buyer, he shall do so at or before the time a lease, rental agreement, or contract for sale is entered into by the parties.

B. If the licensee delivers the mold informational pamphlet to the buyer, the licensee is not required to provide any additional information concerning mold. The information contained in the mold informational pamphlet shall be deemed to be adequate to inform the buyer regarding common mold-related hazards that can affect real property.

C. The licensee shall not be held liable for any error, inaccuracy, or omission of any information contained in the mold informational pamphlet pursuant to this Section, if either of the following applies:

(1) The error, inaccuracy, or omission was not within the personal knowledge of the licensee.

(2) The error, inaccuracy, or omission was based on information provided to the licensee by the commission, a public agency, or by other persons providing relevant information by delivery of a report or opinion prepared by an expert dealing with matters within the relevant scope of his professional license, and ordinary care was exercised by the licensee in obtaining and transmitting such information.

D. Nothing in this Section shall alter or affect the existing disclosure duties of any party to a real estate transaction, or their agents, including but not limited to the duty of a licensee to disclose any known material defect regarding the condition of the property.